whatever be the nature of the trade. It is not that an alien has an inherent right to sell liquor, but that he has a right not to be debarred merely because he is an alien. Would the Maryland Court of Appeals, in view of the history of the Fourteenth Amendment, support a statute forbidding any negro to sell liquor?

In *Trageser* v. *Gray* the provision in question was only one clause of a statute raising the license fee and imposing on the liquor trade other restrictions not unlike those in *Crowley* v. *Christensen*, 11 Sup. Ct. Rep. 13,[1] and plainly constitutional. As the plaintiff undertook to treat the whole statute as invalid, and demanded a license under the provisions of the statute previously in force, the *decision* of the case may be supported consistently with the views here suggested; and it is noticeable that two members of the court, including the Chief Justice, while concurring in the judgment, state that their reasons are not those of the majority. If the Supreme Court of the United States has occasion to pass upon the constitutionality of the alien clause, it may be seriously doubted whether the decision of the Maryland court will be sustained.

THE Incorporated Council of Law Reporting for England and Wales has decided to begin a new series of reports. The change is entirely unnecessary and has caused a good deal of grumbling in England, as the advantages of it are not very apparent and it necessitates a new method of citation. It was hard enough before to avoid confusing 1 Q. B., L. R. 1 Q. B., and 1 Q. B. D., but we must now add [1891] 1 Q. B. The citations for the new series will be as follows:

Chancery Division	[1891] 1 Ch.
	[1891] 2 Ch.
	[1891] 3 Ch.
Queen's Bench Division	[1891] 1 Q. B.
	[1891] 2 Q. B.
Probate Division	[1891] P.
Appeal Cases	[1891] A. C.
In 1892 they will be	[1892] 1 Ch., etc.

RECENT CASES.

[These cases are selected from the current English and American decisions not yet regularly reported, for the purpose of giving the latest and most progressive work of the courts. No pains are spared in selecting *all* the cases, comparatively few in number, which disclose the general progress and tendencies of the law. When such cases are particularly suggestive, comments and references are added, if practicable.]

ADMIRALTY — JOINT TORT-FEASORS. — Where vessel A. has been injured by the negligent management of vessels B. and C., the admiralty rule as to damages is the same as the common-law rule; the entire damage may be recovered from either one, if the plaintiff chooses. The American rule, that in the first instance only half can be recovered from either one, and, in addition, the balance only, which the plaintiff cannot enforce against either, being recoverable from the other, does not hold in England. *The Avon* [1891], P. 7 (Eng.).

ADMIRALTY — MARITIME LIEN. — The plaintiff agreed to remain on board ship while it was at the dock. *Held*, he had a maritime lien for wages so earned. *Reg.* v. *Judge of City of London Court*, 63 L. T. Rep. N. S. 492 (Eng.).

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[1] See 4 Harv. L. Rev. 236.

BAILMENT — NEGLIGENCE OF BAILEE. — The plaintiff, while trying on a cloak in the store of the defendant, a dealer in ready-made clothes, laid her own cloak aside, and when she looked for it again, it was gone. *Held*, that the defendant, by providing mirrors and clerks to aid in the process of trying on garments, impliedly invited customers to lay aside their wraps during the process, and was, therefore, bound to exercise some care over them; and as in this case, by his failure to provide a place to keep the wraps, and to notify either the customer or his clerks to look after them, it was evident that he exercised no care at all, he was liable. *Bunnell* v. *Stern*, 25 N. E. Rep. 910 (N. Y.).

COMMON CARRIERS — EMINENT DOMAIN. — *Held*, that the statute providing that a corporation organized for the construction of "any railway" may appropriate land for a right of way does not apply to a corporation organized to construct a street railway propelled by electricity or horse-power for local convenience and the transportation of passengers so as to authorize it to condemn private property for a right of way. *Thomson-Houston Electric Co.* v. *Simon*, 25 Pac. Rep. 147 (Or.).

COMMON CARRIERS — LIABILITY OF MASTER FOR TORTS OF SERVANT. — The plaintiff was a passenger in defendant company's train. Induced by the conductor joining with others in simulated threats to rob, bind, and throw him from the train, he jumped off and was injured. *Held*, that the company were liable for the misconduct of the conductor, and the plaintiff could recover. *Spohn* v. *Missouri Pac. Ry. Co.*, 14 S. W. Rep. 880 (Mo.).

CONSTITUTIONAL LAW — EQUAL PROTECTION OF LAWS — REGULATION OF SALE OF INTOXICATING LIQUORS. — Act Md. 1890, c. 343, established a Board of Commissioners to regulate the sale of intoxicating liquors in the city of Baltimore, and empowered the Board to grant licenses only to citizens of the United States. *Held*, that the act was a valid exercise of the police power and not in conflict with U. S. Const., 14th Amend., § 1. *Trageser* v. *Gray*, 20 Atl. Rep. 905 (Md.).

CONSTITUTIONAL LAW — "HOLDING COURT." — The constitution of Montana provides that "the State shall be divided into judicial districts, in each of which there shall be elected by the electors thereof one judge of the District Court. . . . Any judge of the District Court may hold court for any other district judge, and shall do so when required by law." *Held*, that this section does not of itself confer upon a judge who is holding court in a district other than his own, authority to grant an injunction in chambers. DeWitt, J., dissenting. *Wallace* v. *Helena El. Ry. Co.*, 25 Pac. Rep. 278 (Mon.).

CONSTITUTIONAL LAW — INTERSTATE COMMERCE — INTOXICATING LIQUORS. — The Supreme Court of the United States decided in the case of the Iowa liquor law that it was broad enough in its terms to embrace all liquors and all sales of liquors by every person, but that this law, under the Constitution of the United States, was inoperative on liquor imported into the State as long as it remained in the original packages, and could not be applied to the sale of liquor in the original package by the importer, "in the absence of congressional permission to do so." The court did not declare the statute of Iowa void, but that its extension or application to liquor in the original packages in which it was imported was, in the absence of congressional consent, unconstitutional. *Held*, that the act of Congress, Aug. 8, 1890, which gives such consent is constitutional, and that its effect is to extend previously existing State liquor laws to liquor imported into the State. *In re Van Vliet*, 43 Fed. Rep. 761.

CONSTITUTIONAL LAW — INTERSTATE COMMERCE — ORIGINAL PACKAGES. — Where several bottles of liquor, each bottle separately wrapped in paper, labelled "Original Package," and marked with the name of the importer, are placed in an open box and shipped therein into another State, the box is the original package.

But where the boxes are furnished by the carrier, and fastened to the car so as virtually to become a part thereof, the bottles separately wrapped and directed are the original packages. *Keith* v. *State; Rion* v. *State*, 8 So. Rep. 353 (Ala.).

In *State* v. *Chapman*, 47 N. W. Rep. 411 (S. D.), bottles were each sealed up in paper wrappers and packed in open boxes, and it was held that the boxes were the original packages. See note, 4 Harv. L. Rev. 284.

CONSTITUTIONAL LAW — INTERSTATE COMMERCE — TELEPHONE MESSAGES. — A message sent by telephone from one State to another is interstate commerce, and a tax imposed by a State upon corporations engaged in transmitting such messages

cannot be enforced by injunction, although the tax may be legal. *In re Pennsylvania Tel. Co.*, 20 Atl. Rep. 846 (N. J.).

CONTRACTS — ADVANCE FREIGHT. — A cargo was shipped under a charter-party, providing that one-third freight should be advanced if required, less three per cent., etc. *Held*, the requirement could be made after the cargo, to the knowledge of all parties, was lost. This follows necessarily from the fact that advance freight cannot be recovered, and an unconditional agreement to pay it can be enforced, after loss of cargo. *Smith, Hill, & Co.* v. *Pyman Bell & Co.*, [1891] 1 Q. B. 42 (Eng.).

CONTRACTS — ILLEGALITY — PUBLIC POLICY. — An assignment by a sheriff of fees yet to be earned will give the assignee no right to the fees as against the judgment creditors of the sheriff. It is against public policy, and void. *Bowery Nat. Bank* v. *Wilson*, 25 N. E. Rep. 855 (N. Y.).

EQUITY JURISDICTION — FIDUCIARY RELATION — FACTOR AND PRINCIPAL. — A factor whose account was largely overdrawn deposited in a bank money which was the proceeds of property consigned to him for sale. *Held*, the money was in law due to the factor, but he holds such a fiduciary capacity that the principal has an equitable claim upon it. Therefore, if the bank received the money knowing of the claim of the principal, it could not retain it to set off against over-drafts by the factor on his own account, but is liable to the principal for the whole amount on a bill in equity. *Union Stock Nat. Bank* v. *Gillespie*, 11 Sup. Ct. Rep. 118.

EQUITY JURISDICTION — RIGHT TO MEMBERSHIP IN A POLITICAL ORGANIZATION. — The courts will not attempt to enforce the right of a person, duly elected thereto, to sit as a new member of a Democratic County Committee, a voluntary unincorporated political association, whether it has a fund in its possession or not. It is quite unlike the case of one who has become a member of a social club for purposes of pleasure or profit, and has, thereby, become entitled to participate in the advantages of membership. Membership in a political organization can have no conceivable pecuniary value, for the court must assume that the objects of the association are merely to strengthen the party. *McKane* v. *Committee*, 25 N. E. Rep. 1057 (N. Y.).

HUSBAND AND WIFE — DIVORCE — ESTOPPEL. — Where a wife abandons her husband to live in adultery with another man, whom she marries after learning that her husband has procured a divorce, then, although after her first husband's death the decree is, at her instance, adjudged void for want of jurisdiction, she is estopped, by her having accepted the benefits of such decree of divorce, from claiming any share in her first husband's estate as his widow. *Arthur* v. *Israel*, 25 Pac. Rep. 81 (Col.).

LIBEL — PRIVILEGED COMMUNICATION. — A bank sued its cashier on his bond for misappropriating its funds, and served a bill of particulars of the defalcation on the defendant's attorney in that action, which stated that the funds had been misappropriated "by collusion with the teller." It also gave a similar statement to a representative of the sureties, at his request, but there was no other publication. *Held*, that although the statement in regard to the teller was made in the course of a judicial proceeding and in good faith, yet, as it did not tend to establish any fact relevant to the defendant's case, it was *prima facie* a libel. O'Brien and Earl, JJ., dissented. *Moore* v. *Manufacturers' Bank*, 25 N. E. Rep. 1048 (N. Y.).

MALICIOUS PROSECUTION — PROBABLE CAUSE. — The conviction of the defendant in a justice's court is conclusive evidence of probable cause, though followed by an acquittal on appeal. *Adams* v. *Bicknell*, 25 N. E. Rep. 804 (Ind.).

MASTER AND SERVANT. — Where a boy of thirteen years is employed in a tinshop, and is allowed by his master to work a cutting-machine, making trinkets for his own amusement, and is injured while so doing, whether the boy had capacity to appreciate the danger is a question of fact for the jury in determining whether the master was negligent in allowing him to use the machine. *Wynne* v. *Conklin*, 12 S. E. Rep. 183 (Ga.).

NEGLIGENCE — ABSTRACT OF TITLE CO. — LIABILITY. — An abstract company which prepares an abstract on the order of a vendor, delivers it to him, and warrants it to be a true and perfect abstract of the title, is liable for omissions to a vendee who completes his purchase in reliance on it. The company holds itself out as competent to do the work, and assumes the responsibility of discharging its duties in a skilful and careful manner. *Dickel* v. *Nashville Abstract Co.*, 14 S. W. Rep. 896 (Tenn.).

NEGLIGENCE — DEFECTIVE HIGHWAYS — LIABILITY OF ABUTTERS. — A city charter provided that it should be the duty of lot-owners to keep the sidewalks adjoining their lots in repair. It also provided that in case of a failure so to do the city should repair, at the expense of the abutter. *Held*, that the lot-owners were not liable to individuals for injuries from defective sidewalks, but only to the city for repairs, and therefore, though the city was compelled to pay damages to the individual, it could not recover the amount from the abutter. *City of Rochester* v. *Campbell*, 25 N. E. Rep. 937 (N. Y.).

NUISANCE. — In an action to recover damages for maintaining a fertilizer factory from which noxious gases escape into the plaintiff's premises, it is not proper to submit to the jury the questions whether the location of the factory is convenient and proper for carrying on the business, and whether such use of the property is a reasonable one.

It is immaterial that a large amount of capital is invested in similar factories in the immediate neighborhood. *Susquehanna Fertilizer Co.* v. *Malone*, 20 Atl. Rep. 900 (Md.).

The opinions in *Tipping* v. *Smelting Co.*, 11 H. L. C. 642, are cited at length as exact statements of the law.

See also *Bohan* v. *Port Jervis Gas Co.*, 25 N. E. Rep. 246 (N. Y.), which decides that a gas company incorporated under the laws of New York cannot carry on its business so as to render adjoining property unfit for comfortable enjoyment, though all possible care is used to render the business inoffensive.

PROPERTY — ATTACHMENT — SALE OF PERISHABLE PROPERTY. — A purchaser at a sale of attached property, sold by order of the court as perishable, acquires title free from a landlord's lien which was prior to the attachment. The court puts this on the necessity of such a rule in order to obtain a fair price at such sale. *Betterton* v. *Eppstein*, 14 S. W. Rep. 861 (Tex.).

QUASI CONTRACTS — PAYMENT BY MISTAKE — NEGLIGENCE. — Where a payment in excess of the amount due is made by a debtor under a mistake of fact which ordinary diligence in looking up his receipts would have removed, the money cannot be recovered back. *Brummitt* v. *McGuire*, 12 S. E. Rep. 191 (N. C.).

REAL PROPERTY — BREACH OF COVENANT OF WARRANTY — MEASURE OF DAMAGES OF REMOTE VENDEE. — *Held*, a vendee who has lost his land by reason of a title paramount to that of his remote vendor is not limited in his recovery from such remote vendor for breach of warranty, to the amount which such vendee paid for the land, but may recover the amount which such remote vendor received for the land. *Brooks* v. *Black*, 8 So. Rep. 332 (Miss.).

REAL PROPERTY — DEEDS — DEFECTIVE ACKNOWLEDGMENT. — An officer who has made a defective certificate of a married woman's acknowledgment of a deed cannot correct the defect. There must be a reacknowledgment. The officer's term had expired, but he still held the office, by virtue of a re-election. *Griffith* v. *Ventress*, 8 So. Rep. 312 (Ala.).

REAL PROPERTY — DEEDS — DELIVERY. — A father conveyed an estate in land to his infant daughter in fee, and had the deed recorded, but thereafter kept it in his possession. *Held*, that the delivery of the deed to the registrar for record, and the recording thereof, was sufficient to pass the title to the grantee, and that the father should not be allowed to testify that he never intended to make an absolute conveyance. *Annis* v. *Wilson*, 25 Pac. Rep. 304 (Col.).

REAL PROPERTY — DEEDS — DELIVERY TO REGISTRAR. — The grantee of a deed delivered it to the registrar to be recorded. Through his negligence it was not recorded. The grantor subsequently conveyed the same land to a *bona fide* purchaser, who had examined the record and found no entry of the prior deed. *Held*, that the *bona fide* purchaser could not be charged with constructive notice of the unrecorded deed, and therefore took a perfect title. *Ritchie* v. *Griffiths*, 25 Pac. Rep. 341 (Wash.).

REAL PROPERTY — DELIVERY OF DEEDS. — The plaintiff's mother being very ill and fearing death made a deed by which she granted to the plaintiff her interest in certain land. The deed was given to the plaintiff, but it was the grantor's intention, and was so agreed by the plaintiff, that the deed should not take effect at all, except in case of the grantor's death. The mother recovered, and the defendant claimed the land in question, under a subsequent judgment against her and an execution sale.

Held, that as the deed was delivered to the grantee, it could not take effect as an escrow, and, therefore, was a valid deed from the time of its delivery, and passed the legal title to the plaintiff absolutely. *Mowry* v. *Heney*, 25 Pac. Rep. 17 (Cal.).

It would seem, however, that the court might have held that the transaction was an attempt to make a *donatio causa mortis* of real estate, and therefore was of no effect.

REAL PROPERTY — EASEMENTS IN HIGHWAYS — ELEVATED RAILROADS. — The owner of an abutting lot, though he has no interest in the fee of the street, has nevertheless easements of light, air, and access for which he can maintain an action for damages if they are impaired by the erection of an elevated railway. *Abendroth* v. *N. Y. El. R. Co.*, 25 N. E. Rep. 496 (N. Y.). See also 4 Harv. L. Rev. 70.

REAL PROPERTY — ESTOPPEL BY NEGLIGENCE — FALSE PRETENCES. — A deed or conveyance of real estate, perfect in form except that the grantee's name was left blank, was executed and acknowledged by the grantor and left with the defendant, who was to arrange the terms of the purchase with one of two persons named. The defendant fraudulently filled in his own name as grantee and had the deed recorded. He then executed a mortgage to a person who advanced money relying on the defendant's record title and ignorant of the fraud. *Held*, that the mortgage was valid, and that therefore the defendant was not guilty of obtaining money by false pretences from the mortgagee, as the latter had not been defrauded to his injury. *State* v. *Matthews*, 25 Pac. Rep. 6 (Kan.).

REAL PROPERTY — FIXTURES BETWEEN EXECUTOR OF TENANTS BY THE CURTESY AND REMAINDER-MAN. — Machinery attached to the realty by a tenant by the curtesy during his term, for the purpose of milling corn for the neighborhood goes on his death to his executor as against the remainder-man. *Overman* v. *Sasser*, 12 S. E. Rep. 64 (N. C.).

REAL PROPERTY — FIXTURES — LICENSE FROM LIFE-TENANT — REMOVAL. — One who has erected buildings on the land of a life-tenant has no right to remove them, under an agreement made with him by the life-tenant that he might erect and remove them. *Demby* v. *Parse*, 14 S. W. Rep. 899 (Ark.).

REAL PROPERTY — HUSBAND AND WIFE — CURTESY. — A married woman cannot, even with the written consent of her husband, devise her estate freed from the right to curtesy. *Middleton* v. *Steward*, 20 Atl. Rep. 846 (N. J.).

REAL PROPERTY — INHERITANCE — ADOPTED CHILD — COLLATERAL INHERITANCE TAX. — A legacy given to an illegitimate son, who, by an act of the Legislature authorizing the testator to adopt said child as his heir, was made the heir of said testator capable of inheriting "as if he had been born in lawful wedlock," is subject to the collateral inheritance tax. *Commonwealth* v. *Ferguson*, 20 Atl. Rep. 870 (Pa.).

REAL PROPERTY — INHERITANCE — RIGHTS OF ADOPTED CHILD. — A statute of Tennessee provides that an adopted child shall have the rights of a child as if born the child of the adopting parent, and shall be capable of inheriting and succeeding to the latter's real and personal estate as heir and next of kin. *Held*, that the act of adoption does not make the adopted child the heir and next of kin of children born to the adopting parent. *Helms* v. *Elliott*, 14 S. W. Rep. 930 (Tenn.).

REAL PROPERTY — LICENSE — REVOCATION. — The plaintiff's land was so situated that surface water from the land of the defendant ran over it. By agreement a drain was built, each constructing the part required on his own land through which water flowed constantly. This was of great benefit to the plaintiff, as it improved his land, and the water was of use for his cattle. *Held*, that as the plaintiff had expended money in building the drain under the agreement, the defendant was liable in damages for interrupting the flow of water by digging up the drain on his own land. *Ferguson* v. *Spencer*, 25 N. E. Rep. 1035 (Ind.).

STATUTE OF FRAUDS — MEMORANDUM. — A memorandum in an auctioneer's book of a sale of land was signed by the auctioneer and otherwise good, but did not name the vendor. *Held*, it was not a sufficient memorandum to comply with the Statute of Frauds. *Mentz* v. *Newwitter*, 25 N. E. Rep. 1044 (N. Y.).

TELEGRAPH COMPANIES — STATUTORY PENALTIES — STIPULATIONS. — A provision in a telegraph blank, that all claims for damages for negligence in sending the despatch shall be made in writing within a certain time, or the company shall not be

liable, does not apply to an action for a statutory penalty for such negligence. *Western Union Tel. Co.* v. *Cooledge*, 12 S. E. Rep. 264 (Ga.).

TRUSTS. — Land was conveyed to certain persons in trust, on condition that they build thereon a house of worship when they thought fit, and permit certain persons to preach in said church, and that the trustees should permit the building to be used "for such other purposes as should be deemed appropriate and necessary to further the cause of Christ." There was nothing in the deed in the nature of a covenant to rebuild, or words indicating a desire on the part of the grantor that the land should revert upon a failure of the trustees to maintain the church. *Held*, that a church having been erected thereon, and used as long as it was fit for use, the trustees might sell the land, and invest the proceeds in a parsonage for the same congregation in connection with a new church on a different lot. *Hardy* v. *Wiley*, 12 S. E. Rep. 233 (Va.).

REVIEWS.

ESSENTIALS OF LEGAL MEDICINE, TOXICOLOGY, AND HYGIENE. By C. E Armand Semple, M.D. W. B. Saunders, Philadelphia, 1890. 12mo. Pages 196.

This small volume contains the only condensation of this comprehensive subject which has yet been published. It is intended primarily to aid the physician in preparing and presenting evidence, either as an ordinary witness or as an expert in cases which involve medical questions. For this purpose the possible sources and kinds of evidence in such cases, and the value of each, are set forth with sufficient fulness to make the book useful in the hands of a student of medicine, either as an introduction to the subject or means of review. The rules of law which deal with such evidence are very briefly enunciated.

The value of the work to the lawyer must also be great, though not by way of introduction. The familiar use of technical terms will prevent that; but the later labor of keeping fresh in memory the main lines of proof that may be followed in dealing with such questions as personal identity, infanticide, causes of death, and effects of poisons, is lightened by such a handy compendium as this.

P. G. B.

LEADING ARTICLES IN EXCHANGES.

American Law Review. Vol. 25. Review Pub. Co., St. Louis, Mo.

No. 1. The Courts of Judicature of England as Organized, Consolidated, and Established by Recent Judicature Acts. — Their New System of Pleading and Practice with Law and Equity blended (Elliott Anthony). The Ancient Lawyer (Charles E. Fenner). State Quarantine Laws and the Federal Constitution (William H. Cowles). An Effect of Ratification (F. A. Sondley). Spanish Laws on Marriage and their Extra-Territorial Effect (Emile Stocquart).

Political Science Quarterly. Vol. 5. Ginn & Co., N. Y.

No. 4. Evolution of Copyright (Brander Matthews). Taxation of Corporations, III. (E. R. A. Seligman).